

Natural Areas Laws and Regulations

The Natural Area Preserves Act (RCW 79.70)

Sections

79.70.010	Purpose.
79.70.020	Definitions.
79.70.030	Powers of department.
79.70.040	Powers as to transactions involving public lands deemed natural areas-- Alienation of lands designated natural area preserves.
79.70.060	Legislative findings--Natural heritage resources.
79.70.070	Natural heritage advisory council.
79.70.080	Council duties.
79.70.090	Dedication of property as natural area.
79.70.100	Public hearing--Establishment of boundary.
79.70.900	Construction--1972 ex.s. c 119.

79.70.010 Purpose. The purpose of this chapter is to establish a state system of natural area preserves and a means whereby the preservation of these aquatic and land areas can be accomplished.

All areas within the state, except those which are expressly dedicated by law for preservation and protection in their natural condition, are subject to alteration by human activity. Natural lands, together with the plants and animals living thereon in natural ecological systems, are valuable for the purposes of scientific research, teaching, as habitats of rare and vanishing species, as places of natural historic and natural interest and scenic beauty, and as living museums of the original heritage of the state.

It is, therefore, the public policy of the state of Washington to secure for the people of present and future generations the benefit of an enduring resource of natural areas by establishing a system of natural area preserves, and to provide for the protection of these natural areas. [1972 ex.s. c 119 § 1.]

79.70.020 Definitions. For the purposes of this chapter:

- (1) "Department" shall mean the department of natural resources.
- (2) "Natural areas" and "natural area preserves" shall mean such public or private areas of land or water which have retained their natural character, although not necessarily completely natural and undisturbed, or which are important in preserving rare or vanishing flora, fauna, geological, natural historical or similar features of scientific or educational value and which are acquired or voluntarily registered or dedicated by the owner under this chapter.
- (3) "Public lands" and "state lands" shall have the meaning set out in RCW 79.01.004.
- (4) "Council" means the natural heritage advisory council as established in RCW 79.70.070.
- (5) "Commissioner" means the commissioner of public lands.
- (6) "Instrument of dedication" means any written document intended to convey an interest in real property pursuant to chapter 64.04 RCW.
- (7) "Natural heritage resources" means the plant community types, aquatic types, unique geologic types,

and special plant and animal species and their critical habitat as defined in the natural heritage plan established under RCW 79.70.030.

- (8) "Plan" means the natural heritage plan as established under RCW 79.70.030.
- (9) "Program" means the natural heritage program as established under RCW 79.70.030.
- (10) "Register" means the Washington register of natural area preserves as established under RCW 79.70.030. [1981 c 189 § 1; 1972 ex.s. c 119 § 2.]

79.70.030 Powers of department. In order to set aside, preserve and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

- (1) Establish by rule and regulation the criteria for selection, acquisition, management, protection and use of such natural areas;
- (2) Cooperate or contract with any federal, state, or local governmental agency, private organizations or individuals in carrying out the purpose of this chapter;
- (3) Consistent with the plan, acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area;
- (4) Acquire by gift, devise, grant or donation any personal property to be used in the acquisition and/or management of natural areas;
- (5) Inventory existing public, state and private lands in cooperation with the council to assess possible natural areas to be preserved within the state;
- (6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department of natural resources shall cooperate with the department of fish and wildlife in the selection and nomination of areas from the data bank that relate to critical wildlife habitats. Information from the data bank shall be made available to public and private agencies and individuals for environmental assessment and proprietary land management purposes. Usage of the classification, inventory or data bank of natural heritage resources for any purpose inconsistent with the natural heritage program is not authorized;
- (7) Prepare a natural heritage plan which shall govern the natural heritage program in the conduct of activities to create and manage a system of natural areas which may include areas designated under the research natural area program on federal lands in the state;
 - (a) The plan shall list the natural heritage resources to be considered for registration and shall provide criteria for the selection and approval of natural areas under this chapter;
 - (b) The department shall provide opportunities for input, comment, and review to the public, other public agencies, and private groups with special interests in natural heritage resources during preparation of the plan;
 - (c) Upon approval by the council and adoption by the department, the plan shall be updated and submitted biennially to the appropriate committees of the legislature for their information and review. The plan shall take effect ninety days after the adjournment of the legislative session in which it is submitted unless the reviewing committees suggest changes or reject the plan; and
- (8) Maintain a state register of natural areas containing significant natural heritage resources to be called the Washington register of natural area preserves. Selection of natural areas for registration shall be in accordance with criteria listed in the natural heritage plan and accomplished through voluntary agreement between the owner of the natural area and the department. No privately owned lands may be proposed to the council for registration without prior notice to the owner or registered without

voluntary consent of the owner. No state or local governmental agency may require such consent as a condition of any permit or approval of or settlement of any civil or criminal proceeding or to penalize any landowner in any way for failure to give, or for withdrawal of, such consent.

- (a) The department shall adopt rules and regulations as authorized by RCW 43.30.310 and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural area registration.
- (b) After approval by the council, the department may place sites onto the register or remove sites from the register.
- (c) The responsibility for management of registered natural area preserves shall be with the preserve owner. A voluntary management agreement may be developed between the department and the owners of the sites on the register.
- (d) Any public agency may register lands under provisions of this chapter. [1994 c 264 § 61; 1988 c 36 § 54; 1981 c 189 § 3; 1972 ex.s. c 119 § 3.]

79.70.040 Powers as to transactions involving public lands deemed natural areas--Alienation of lands designated natural area preserves. The department is further authorized to purchase, lease, set aside or exchange any public land or state-owned trust lands which are deemed to be natural areas: Provided, that the appropriate state land trust receives the fair market value for any interests that are disposed of: Provided, further, that such transactions are approved by the board of natural resources.

An area consisting of public land or state-owned trust lands designated as a natural area preserve shall be held in trust and shall not be alienated except to another public use upon a finding by the department of natural resources of imperative and unavoidable public necessity. [1972 ex.s. c 119 § 4.]

79.70.060 Legislative findings--Natural heritage resources. The legislature finds:

- (1) That it is necessary to establish a process and means for public and private sector cooperation in the development of a system of natural areas. Private and public landowners should be encouraged to participate in a program of natural area establishment which will benefit all citizens of the state;
- (2) That there is a need for a systematic and accessible means for providing information concerning the locations of the state's natural heritage resources; and
- (3) That the natural heritage advisory council should utilize a specific framework for natural heritage resource conservation decision making through a classification, inventory, priority establishment, acquisition, and management process known as the natural heritage program. Future natural areas should avoid unnecessary duplication of already protected natural heritage resources including those which may already be protected in existing publicly owned or privately dedicated lands such as nature preserves, natural areas, parks, or wilderness. [1981 c 189 § 2.]

79.70.070 Natural heritage advisory council.

- (1) The natural heritage advisory council is hereby established. The council shall consist of fifteen members, ten of whom shall be chosen as follows and who shall elect from the council's membership a chairperson:
 - (a) Five individuals, appointed by the commissioner, who shall be recognized experts in the ecology of natural areas and represent the public, academic, and private sectors. Desirable fields of expertise are biological and geological sciences; and
 - (b) Five individuals, appointed by the commissioner, who shall be selected from the various regions of the state. At least one member shall be or represent a

private forest landowner and at least one member shall be or represent a private agricultural landowner.

(2) Members appointed under subsection (1) of this section shall serve for terms of four years.

(3) In addition to the members appointed by the commissioner, the director of the department of fish and wildlife, the director of the department of ecology, the supervisor of the department of natural resources, the director of the state parks and recreation commission, and the administrator of the interagency committee for outdoor recreation, or an authorized representative of each agency officer, shall serve as ex officio, nonvoting members of the council.

(4) Any vacancy on the council shall be filled by appointment for the unexpired term by the commissioner.

(5) In order to provide for staggered terms, of the initial members of the council:

- (a) Three shall serve for a term of two years;
- (b) Three shall serve for a term of three years; and
- (c) Three shall serve for a term of four years.

(6) Members of the natural preserves advisory committee serving on July 26, 1981, shall serve as members of the council until the commissioner appoints a successor to each. The successor appointment shall be specifically designated to replace a member of the natural preserves advisory committee until all members of that committee have been replaced. A member of the natural preserves advisory committee is eligible for appointment to the council if otherwise qualified.

(7) Members of the council shall serve without compensation. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. [1998 c 50 § 1; 1994 c 264 § 62; 1988 c 36 § 55; 1981 c 189 § 4.]

79.70.080 Council duties.

(1) The council shall:

- (a) Meet at least annually and more frequently at the request of the chairperson;
- (b) Recommend policy for the natural heritage program through the review and approval of the natural heritage plan;
- (c) Advise the department, the department of fish and wildlife, the state parks and recreation commission, and other state agencies managing state-owned land or natural resources regarding areas under their respective jurisdictions which are appropriate for natural area registration or dedication;
- (d) Advise the department of rules and regulations that the council considers necessary in carrying out this chapter; and
- (e) Review and approve area nominations by the department or other agencies for registration and review and comment on legal documents for the voluntary dedication of such areas.

(2) From time to time, the council shall identify areas from the natural heritage data bank which qualify for registration. Priority shall be based on the natural heritage plan and shall generally be given to those resources which are rarest, most threatened, or under-represented in the heritage conservation system on a state-wide basis. After qualifying areas have been identified, the department shall advise the owners of such areas of the opportunities for acquisition or voluntary registration or dedication. [1994 c 264 § 63; 1988 c 36 § 56; 1981 c 189 § 5.]

79.70.090 Dedication of property as natural area.

(1) The owner of a registered natural area, whether a private individual or an organization, may voluntarily agree to dedicate the area as a natural area by executing with the state an instrument of dedication in a form approved by the council. The instrument of dedication shall be effective upon its recording in the real property

records of the appropriate county or counties in which the natural area is located. The county assessor in computing assessed valuation shall take into consideration any reductions in property values and/or highest and best use which result from natural area dedication.

(2) A public agency owning or managing a registered natural area preserve may dedicate lands under the provisions of this chapter.

(3) The department shall adopt rules and regulations as authorized by RCW 43.30.310 and 79.70.030(1) relating to voluntary natural area dedication and defining:

- (a) The types of real property interests that may be transferred;
- (b) Real property transfer methods and the types of consideration of payment possible;
- (c) Additional dedication provisions, such as natural area management, custody, use, and rights and privileges retained by the owner; and
- (d) Procedures for terminating dedication arrangements. [1981 c 189 § 6.]

79.70.100 Public hearing--Establishment of boundary. The department shall hold a public hearing in the county where the majority of the land in a proposed natural area preserve is located prior to establishing the boundary. [1998 c 50 § 2.]

79.70.900 Construction--1972 ex.s. c 119. Nothing in this chapter is intended to supersede or otherwise affect any existing legislation. [1972 ex.s. c 119 § 6.]

General Provisions: Exchange of Lands—Purposes.

RCW 79.08.250

79.08.250 Exchange of lands—Purposes. The department of natural resources may exchange surplus real property previously acquired by the department as administrative sites. The property may be exchanged for any public or private real property of equal value, to preserve archaeological sites on trust lands, to acquire land to be held in natural preserves, to maintain habitats for endangered species, or to acquire or enhance sites to be dedicated for recreational purposes. [1979 c 24 § 1.]

Rules for the Washington Register of Natural Area Preserves 332-60 Washington Administrative Code

WAC 332-60-010 AUTHORITY. This chapter is promulgated pursuant to the authority granted in RCW 79.70.030 and RCW 79.70.090

WAC 332-60-020 PURPOSE. The purpose of this chapter is to establish rules for implementing a statewide system of registration of natural areas and creation of natural area preserves.

WAC 332-60-0030 INVALIDITY OF PART OF CHAPTER NOT AFFECT REMAINDER. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

WAC 332-60-040 COOPERATION WITH GOVERNMENT AGENCIES OR PRIVATE ENTITIES. The Department may cooperate or contract with any federal, state or local government agency, private organization, or individual, in carrying out the purpose of this chapter.

WAC 332-60-050 DEFINITIONS.

- (1) "Department" means the Department of Natural Resources.
- (2) "Council" means the Natural Heritage Advisory Council as established in RCW 79.70.070.
- (3) "Plan" means the State of Washington Natural Heritage Plan as established under RCW 79.70.030
- (4) "Natural heritage resource" means the plant community types, aquatic types, unique geologic types, and special plant and animal species and their critical habitat as defined in the plan.
- (5) "Natural area" means a unit of land or water or both which contains a natural heritage resource, and which has been registered by the landowner and may be considered for dedication or commitment as a natural area preserve.
- (6) "Natural area preserve" means a natural area which has been:
 - (a) dedicated under the provisions of RCW 79.70.090; or
 - (b) formally committed to protection by a cooperative agreement between a government landholder and the Department.
- (7) "Registration" means a voluntary commitment by the landowner for protection of a specific natural heritage resource located on the landowner's land. No real property interest is transferred. Registration is memorialized by a certificate of registration issued by the Department.
- (8) "Dedication" means the formal recognition and protection of a natural area for natural heritage conservation purposes accomplished by the voluntary transfer by a landowner to the Department of an interest in real property less than fee simple.
- (9) "Register" means the Washington Register of Natural Area Preserves which lists the sites which have been formally registered, dedicated or formally protected by cooperative agreement, for natural area purposes.
- (10) "Instrument of dedication" means a written document intended to convey an interest in real property, pursuant to chapter 64.04. RCW.
- (11) "Landowner" means any individual, partnership, private, public, non-profit, or municipal corporation, city, county, state agency, agency of the United States or any other governmental agency of the United States or any other governmental agency or entity, which exercises control over a natural heritage resource whether such control is based on legal or equitable title, or which manages or holds in trust land in Washington State.

- (12) "Government landholder" means any city, municipal corporation, county, state agency, agency of the United States, or any other government agency which manages, owns, holds in trust or otherwise has jurisdiction over land in Washington State.

Natural Areas - Registration

WAC 3332-60-060 SITE CRITERIA FOR REGISTRATION. The criteria for identification for registration are set forth in the Plan.

WAC 332-60-070 PROCEDURES FOR REGISTRATION OF NATURAL AREAS.

- (1) After a site has been identified, the Department or its designee shall notify the landowner, in writing, of the site's natural heritage resource and the site's eligibility for the Register.
- (2) The Department or its designee must obtain from the landowner written permission to proceed with the site evaluation process.
- (3) Once permission is granted by the landowner to proceed with the site evaluation process, the Department nominates the site to the Council.
- (4) The Council shall review each site nomination and approve or reject registration of the site.
- (5) The Department shall notify the landowner of the Council's determination and, for an approved site, offer the landowner the opportunity to voluntarily place the site on the Register.
- (6) If the landowner agrees to register the site, the Department shall place the site on the Register and provide the landowner with a certificate of registration.
- (7) The Department may offer voluntary management guidelines and may enter into a management agreement with the landowner of a registered natural area.

WAC 332-60-080 REMOVAL OF A NATURAL AREA FROM THE REGISTER.

- (1) The Department shall remove natural areas from the Register at any time:
 - (a) Upon written request by the landowner to the Department; or
 - (b) If the Council determines that the site is no longer managed for the natural heritage resources present, or the site no longer meets the original criteria for selection.
- (2) Landowners are to be notified in writing of removal of a natural area from the Register.

Natural Area Preserve - Dedication

WAC 332-60-090 NATURAL AREA PRESERVE BY INSTRUMENT OF DEDICATION. Upon such terms as the department and landowner agree, a registered natural area may be dedicated as a natural area preserve through the execution of an instrument of dedication in a form approved by the Council.

WAC 3322-060-110 INSTRUMENT OF DEDICATION - FORM. The instrument of dedication shall be in accordance with the requirements of RCW 64.04.130. The instrument of dedication shall be substantially in the form required by law for the conveyance of any land or other real property.

WAC 332-60-110 INSTRUMENT OF DEDICATION - INTEREST CONVEYED. The instrument of dedication shall transfer a real property natural heritage resource. Interests which may be transferred include, but are not limited to: water, timber grazing, development rights, rights to hunt, fish, drain or fill, access easements, or rights of way.

WAC 332-60-120 EFFECTIVE DATE OF DEDICATION. Dedication shall be effective upon the recording of the instrument of dedication in the real property records of the county or counties in which the natural area is located.

WAC 332-60-130 TERMINATION OF DEDICATION. A dedication shall not be terminable except as provided by the instrument of dedication.

Natural Area Preserve Cooperative Agreement

WAC 332-60-140 NATURAL AREA PRESERVE BY COOPERATIVE AGREEMENT. A government landholder of a registered natural area may commit the area as a natural area preserve by executing with the Department a cooperative agreement in a form approved by the Council and upon such terms as the Department and government landholder agree.

WAC 332-60-150 COOPERATIVE AGREEMENT. The cooperative agreement must include a description of the legal or administrative commitment by the government landholder to manage the land for the protection of a natural heritage resource.

WAC 332-60-160 TERMINATION OF NATURAL AREA PRESERVE BY COOPERATIVE AGREEMENT. The site may be removed from a natural area preserve status as provided by the cooperative agreement.